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RICHARD W. WIEKING
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NORTHERN DISTRICT OF CALIFORNIA

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

MEJ

0819

CV 08

13 PAVEL MALOVANY,

14 Plaintiff,

15 vs.

16 RUBEN'S CUSTOM PAINT, a California
17 corporation and DOES 1-50, inclusive,

18 Defendants.

) CASE NO.

) (San Mateo County Case No. CIV 467222)

) NOTICE OF REMOVAL

19 TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
20 NORTHERN DISTRICT OF CALIFORNIA, PLAINTIFF, PAVEL MALOVANY AND HIS
21 ATTORNEY OF RECORD, DARREN M. COHEN:

22 PLEASE TAKE NOTICE that Defendant, RUBEN'S CUSTOM PAINT [Ruben], hereby
23 removes this action from the Superior Court of the State of California for the County of San Mateo
24 to the United States District Court for the Northern District of California, San Francisco Division.
25 This removal is based on the fact that Federal questions are posed therefore, the action is subject to
26 removal pursuant to 28 USC §1441(b) and 28 USC §1331 and for the reasons stated below:

27 1. On or about October 26, 2007, Plaintiff filed a Complaint alleging violations of the Fair
28 Labor Standards Act including but not limited to violations of 29 USC §§201, et seq. violations of
29 USC §§207(a)(1) and 215(a). The Complaint alleges, inter alia, that Defendant did not pay

NOTICE OF REMOVAL

1 Plaintiff minimum, overtime and mealtime wages in violation of the Fair Labor Standards Act.

2 2. Ruben was served with a Complaint effective on January 8, 2008 .

3 3. Ruben filed and served his Answer to the Unverified Complaint on February 4, 2008.

4 A copy of the Answer is attached as an exhibit to the Declaration of Randall M. Widmann.

5 4. Defendants, Doe 1 through 50 are unnamed and unknown and, therefore, to
6 Defendant's knowledge have not been served with Plaintiff's Summons and Complaint.

7 5. In accordance with 28 USC § 1446(d) Defendant, Ruben, will promptly, after filing
8 this Notice of Removal, give written notice of the filing of the Notice to Plaintiff, Malovany, and the
9 Clerk of the San Mateo County Superior Court. Copies of those Notices are attached to the
10 Declaration of Randall M. Widmann. Proof of Service of the Notice to the Superior Court Clerk of
11 Removal and of the Notice to Adverse Party of Removal will be filed with this Court promptly
12 thereafter. (See Declaration of Randall M. Widmann).

13 I.

14 REMOVAL IS BASED ON

15 FEDERAL QUESTION JURISDICTION

16 6. As set forth in the body of the Complaint, the Complaint puts in question various
17 United States Code Sections including 29 USC §§201, et seq. and violations of 29 USC §§207(a)(1)
18 and 215(a) and seeks recovery under, inter alia, §28 USC 216 (b).

19 II.


20 INTRADISTRICT ASSIGNMENT

21 7. Assignment to the San Francisco Division is proper because the state action filed by
22 Plaintiff is pending in the Superior Court of the County of San Mateo. [28 U.S.C. §1446(a); Northern
23 District L.R. 3-2(d).]

24 WHEREFORE, Ruben removes the above-entitled action now pending in the Superior Court
25
26
27

1 of the State of California for the County of San Mateo to this Court.

2
3 Dated: February 5, 2008


4 RANDALL M. WIDMANN
Attorney for Defendant